

separation based on medical conditions that existed prior to members entry into military service. Previously, disability retirement and separation based on pre-existing medical condition had been authorized in regulations after eight years of service.

In 1979 the Department of Defense recommended to the Congress that disability compensation be extended to personnel with less than eight years of service, in order not to "worsen . . . the competitive position of the armed forces in attracting and retaining the numbers and quality of members essential to the proper functioning of the forces" in context of the "All Volunteer" service. Congress, under the Military Personnel and Compensation Amendments of 1980, approved this request. The DoD disability directive written at this time maintained the eight years length of service requirement only for pre-existing conditions. That policy was removed from the regulations in 1996 after a legal finding that there was no law to support the policy.

Only in very rare instances is medical evidence provided that states unequivocally that military service played no part in the progression of the disease. In fact, such evidence has been presented for just a handful of diseases i.e. (Retinitis Pigmentosa, Huntington's Chorea) and the Services have found their hands tied by current DoD policy and legislation.

This amendment offered by myself and Mr. BUYER would place in law a well-conceived and once well-executed policy and has the strong support of the Department of Defense. Adoption of this proposal would provide compensation to a small number of deserving people—perhaps 50 annually—that are afflicted by hereditary or congenital disease undetected at the time they joined the military.

These affected service members are patriots, who after faithfully serving their country for at least eight years, are now told they are no longer fit for military duty because of a pre-existing condition. These men and women joined the military in good faith and it is that good faith that we must return to them. Mr. BUYER and I strongly urge our colleagues to support the amendment.

The CHAIRMAN pro tempore. All time has expired.

The question is on the amendment offered by the gentleman from Indiana (Mr. BUYER).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

Mr. BUYER. Madam Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to House Resolution 200, further proceedings on this question will be postponed.

It is now in order to consider amendment No. 16 printed in House Report 106-175.

AMENDMENT NO. 16 OFFERED BY MR. TRAFICANT

Mr. TRAFICANT. Madam Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part A, amendment No. 16 offered by Mr. TRAFICANT:

At the end of subtitle C of title X (page 283, after line 6), insert the following new section:

**SEC. 1024. ASSIGNMENT OF MEMBERS TO ASSIST IMMIGRATION AND NATURALIZATION SERVICE AND CUSTOMS SERVICE.**

(a) ASSIGNMENT AUTHORITY OF SECRETARY OF DEFENSE.—Chapter 18 of title 10, United States Code, is amended by inserting after section 374 the following new section:

**"§ 374a. Assignment of members to assist border patrol and control**

"(a) ASSIGNMENT AUTHORIZED.—Upon submission of a request consistent with subsection (b), the Secretary of Defense may assign members of the Army, Navy, Air Force, and Marine Corps to assist—

"(1) the Immigration and Naturalization Service in preventing the entry of terrorists and drug traffickers into the United States; and

"(2) the United States Customs Service in the inspection of cargo, vehicles, and aircraft at points of entry into the United States to prevent the entry of weapons of mass destruction, components of weapons of mass destruction, prohibited narcotics or drugs, or other terrorist or drug trafficking items.

"(b) REQUEST FOR ASSIGNMENT.—The assignment of members under subsection (a) may occur only if—

"(1) the assignment is at the request of the Attorney General, in the case of an assignment to the Immigration and Naturalization Service, or the Secretary of the Treasury, in the case of an assignment to the United States Customs Service; and

"(2) the request of the Attorney General or the Secretary of the Treasury (as the case may be) is accompanied by a certification by the President that the assignment of members pursuant to the request is necessary to respond to a threat to national security posed by the entry into the United States of terrorists or drug traffickers.

"(c) TRAINING PROGRAM.—If the assignment of members is requested under subsection (b), the Attorney General or the Secretary of the Treasury (as the case may be), together with the Secretary of Defense, shall establish a training program to ensure that members to be assigned receive general instruction regarding issues affecting law enforcement in the border areas in which the members will perform duties under the assignment. A member may not be deployed at a border location pursuant to an assignment under subsection (a) until the member has successfully completed the training program.

"(d) CONDITIONS ON USE.—(1) Whenever a member who is assigned under subsection (a) to assist the Immigration and Naturalization Service or the United States Customs Service is performing duties at a border location pursuant to the assignment, a civilian law enforcement officer from the agency concerned shall accompany the member.

"(2) Nothing in this section shall be construed to—

"(A) authorize a member assigned under subsection (a) to conduct a search, seizure, or other similar law enforcement activity or to make an arrest; and

"(B) supersede section 1385 of title 18 (popularly known as the 'Posse Comitatus Act').

"(e) NOTIFICATION REQUIREMENTS.—The Attorney General or the Secretary of the Treasury (as the case may be) shall notify the Governor of the State in which members are to be deployed pursuant to an assignment under subsection (a), and local governments in the deployment area, of the deployment of the members to assist the Immigration and Naturalization Service or the United States Customs Service (as the case may be) and the types of tasks to be performed by the members.

"(f) REIMBURSEMENT REQUIREMENT.—Section 377 of this title shall apply in the case of members assigned under subsection (a).

"(g) TERMINATION OF AUTHORITY.—No assignment may be made or continued under subsection (a) after September 30, 2002."

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 374 the following new item:

"374a. Assignment of members to assist border patrol and control."

The CHAIRMAN pro tempore. Pursuant to House Resolution 200, the gentleman from Ohio (Mr. TRAFICANT) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Ohio (Mr. TRAFICANT).

Mr. TRAFICANT. Madam Chairman, I yield myself such time as I may consume.

Madam Chairman, they say this is a perennial Traficant amendment. For 12 years I worked to change the budget surplus in an IRS civil tax case, 12 years, and yes, this is 3 years in a row, because a report recently filed said the greatest national security threat facing the American people is not a foreign enemy per se and their missiles, it is the easy access to America by terrorists and drug smugglers, and our borders are wide open.

The Traficant amendment does not mandate troops on the border. It says if the administration has an emergency and calls them, which they can, it codifies the conditions by which those troops shall be placed. They must be trained. They can never go out alone. They cannot make arrests.

Let me say this, only 3 out of 100 trucks coming across our borders are even inspected, and we are building houses and giving rabies vaccinations in Haiti, guarding borders in the mid-east, waging peacekeeping missions all over the world. The number one security threat facing America and the weak link is our border.

Madam Chairman, I reserve the balance of my time.

Mr. BUYER. Madam Chairman, I rise in opposition to the amendment, reluctantly, and I yield myself such time as I may consume.

Madam Chairman, I again reluctantly oppose the amendment for the following reasons: It is unnecessary. The President of the United States already has the inherent authority to declare a national emergency and employ national reserves to protect the borders of the United States. It is inherent within the constitutional powers of the president. If we cannot protect our own borders within those inherent powers, we do not have to specifically ordain, we do not have to enumerate nor dictate to the President of the United States.

This amendment seeks to protect our border against terrorists and weapons of mass destruction. In fact, major initiatives are already underway to mobilize the Nation against such threats through the utilization of the National Guard weapons of mass destruction programs.

The evidence is overwhelming that our military forces are stretched to a